

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
KVMD Licensee Co., LLP)	
)	
v.)	
)	
Sierra Dawn Cablevision)	CSR 6201-M
)	
Requests for Mandatory Carriage)	
of Television Station KVMD-DT, Twentynine)	
Palms, California)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 17, 2003

Released: October 20, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. KVMD Licensee Co., LLC, licensee of television broadcast station KVMD-DT (Ind. Ch. 23), Twentynine Palms, California ("KVMD"), has filed a must carry complaint with the Commission pursuant to Sections 76.7 and 76.61(a)(3) of the Commission's rules, claiming that Sierra Dawn Cablevision ("Sierra") has failed to commence carriage of KVMD on its cable system serving Hemet, California.¹ The complaint is unopposed. For the reasons stated below, we grant the relief KVMD seeks.

II. DISCUSSION

2. The Commission has held that a broadcaster initiating DTV-only service is entitled to mandatory carriage for its digital signal consistent with applicable statutory provisions and regulatory requirements.² The Commission stated that a digital-only television station is entitled to make its cable carriage election in accordance with the provisions of Section 76.64(f)(4) of the Commission's rules. Like its analog counterpart, a commercial digital television broadcast station is entitled to assert mandatory carriage rights on cable systems located within the station's market. A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.³ The term DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.

¹ 47 C.F.R. §§ 76.7 and 76.61(a)(3).

² *WHDT-DT, Channel 59, Stuart, Florida*, 16 FCC Rcd 2692, 2698 (2001).

³ Section 614(h)(1)(C) of the Communications Act, amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. *See* 47 U.S.C. § 534(h)(1)(C). Section 76.55(e) of the Commission's rules requires that a commercial broadcast station's market be defined by Nielsen Media Research's DMAs. *See* 47 C.F.R. § 76.55(e).

3. Cable operators have the burden of showing that a commercial television station that is located in the same television market is not entitled to carriage. One method of doing so is for the cable operator to establish that a subject television station's signal, which would otherwise be entitled to carriage, does not provide a good quality signal to the cable system's principal headend. For UHF commercial digital television stations, such as KVMD, the standard used to determine what constitutes a good quality signal at a cable system's headend is -61 dBm.⁴ Should a station fail to provide the requisite over-the-air signal quality to a cable system's principal headend, it still may obtain carriage rights. Under the Commission's rules, a television station, at its own expense, may provide a cable operator with specialized equipment to improve the station's signal to an acceptable quality at a cable system's principal headend.

4. KVMD operates on UHF Channel 23 and is a full power digital commercial television station licensed to serve Twentynine Palms, California, which is in the Los Angeles DMA.⁵ Sierra operates a cable television system in Hemet, which is also in the Los Angeles DMA.⁶ Therefore, KVMD qualifies as a local station entitled to mandatory carriage in this community.

5. We grant KVMD's must carry complaint with respect to the cable system at issue. KVMD demonstrates in its complaint that it timely notified the cable operator of its must carry election in accordance with Section 76.64(f) of the Commission's rules.⁷ The cable operator has not challenged KVMD's recitation of the facts nor has it provided any affirmative defenses to carriage. The absence of opposition to KVMD's must carry complaint bolsters our conclusion that mandatory carriage is warranted.

III. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, 47 U.S.C. § 534, that the complaint filed by KVMD Licensee Co., Inc. **IS GRANTED** with respect to the cable system owned by Sierra Dawn Cablevision in Hemet, California.

7. **IT IS FURTHER ORDERED** that Sierra Dawn **SHALL COMMENCE CARRIAGE** of television station KVMD on its cable system serving Hemet, California, within 60 days from the date of this *Order*.

8. This action is taken pursuant to authority delegated pursuant to Section 0.283 of the Commission's rules.⁸

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

⁴ *Carriage of Digital Television Broadcast Signals*, 16 FCC Rcd 2598, 2617 (2001).

⁵ Complaint at 2.

⁶ *Id.*

⁷ *Id.*; see 47 C.F.R. § 76.64(f).

⁸ 47 C.F.R. § 0.283.